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3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

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6 CURTIS L. DOWNING,

Case No. 2:23-cv-0156-ART-BNW

7 Plaintiff,

ORDER

v.

8 AARON FORD, *et al.*,

9 Defendants.

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**I. SUMMARY**

11  
12 *Pro se* Plaintiff Curtis L. Downing, an inmate in the custody of the Nevada  
13 Department of Corrections (“NDOC”), brings a facial constitutional challenge  
14 regarding Senate Bill 182, which created the Statute Revision Commission  
15 (“Commission”), against Defendants Aaron Ford, Steve Sisolak, Brian Sandoval,  
16 Adam Laxalt, and Steven Wolfson. (ECF No. 12). The Court dismissed Plaintiff’s  
17 Complaint without prejudice (ECF No. 5) and granted him leave to file an  
18 amended complaint (ECF No. 10). Before the Court is a Report and  
19 Recommendation (“R&R”) of U.S. Magistrate Judge Brenda Weksler (ECF No. 15),  
20 recommending the Court dismiss Plaintiff’s Amended Complaint with prejudice  
21 for failure to state a claim and deny Plaintiff leave to file another amended  
22 complaint as futile. (ECF No. 15). Plaintiff filed an objection to the R&R. (ECF No.  
23 16 (“Objection”)). Because the Court agrees with Judge Weksler’s analysis of  
24 Plaintiff’s First Amended Complaint, the Court will adopt the R&R in full, dismiss  
25 Plaintiff’s First Amended Complaint with prejudice, and deny Plaintiff leave to file  
26 another amended complaint. The Court will also dismiss as moot Plaintiff’s  
27 motion to renew his objections to Judge Weksler’s minute order (ECF No. 14).

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1       **II.     LEGAL STANDARD**

2           This Court “may accept, reject, or modify, in whole or in part, the findings  
 3 or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where  
 4 a party timely objects to a magistrate judge’s report and recommendation, then  
 5 the Court is required to “make a de novo determination of those portions of the  
 6 [report and recommendation] to which objection is made.” *Id.* The Court’s review  
 7 is thus de novo because Plaintiff filed his Objection. (ECF No. 16).

8       **III.    DISCUSSION**

9           Although Plaintiff makes several arguments in his Objection, none of these  
 10 arguments corrects Plaintiff’s fundamental failure to state a claim upon which  
 11 relief may be granted. In his Amended Complaint and Objection, Plaintiff argues  
 12 that that SB 182, which created the Commission, is facially unconstitutional  
 13 because it allegedly grants judges powers and imposes duties that are non-  
 14 judicial in character in violation of the separation of powers doctrine. (ECF No.  
 15 16, at 3-5). However, as Judge Weksler explained in her Report and  
 16 Recommendation, challenges to SB 182 and the Statute Revision Commission  
 17 using the same reasoning have repeatedly failed because courts have found that  
 18 the Legislative Counsel Bureau (“Bureau”) which succeeded the Commission only  
 19 codifies and classifies laws, but the Bureau does not itself exercise the legislative  
 20 function. (ECF No. 15, at 2). Plaintiff asks this Court to grant leave for Plaintiff to  
 21 amend his complaint. (ECF No. 16, at 8-10). However, since Plaintiffs’ claims all  
 22 relate back to this separation of powers argument which has already been  
 23 resolved by other courts, this Court finds that granting leave to amend would be  
 24 futile and thus inappropriate.

25           In sum, the Court finds that Judge Weksler’s analysis of the FAC was  
 26 accurate and overrules Plaintiff’s Objection.

27       **IV.     CONCLUSION**

28           It is therefore ordered that Plaintiff’s objection (ECF No. 16) to the Report

1 and Recommendation of U.S. Magistrate Judge Brenda Wexler is overruled. The  
2 Report and Recommendation (ECF No. 15) is therefore accepted and adopted in  
3 full.

4 It is further ordered that the case is dismissed for failure to state a claim.

5 It is further ordered that Plaintiff is denied leave to file another amended  
6 complaint as futile.

7 It is further ordered that Plaintiff's motion to renew his challenge to Judge  
8 Weksler's minute order (ECF No. 14) is dismissed as moot.

9 It is further ordered that the Clerk of Court is directed to administratively  
10 close this case.

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12 DATED THIS 31<sup>st</sup> Day of July 2023.



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15 ANNE R. TRAUM  
16 UNITED STATES DISTRICT JUDGE  
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